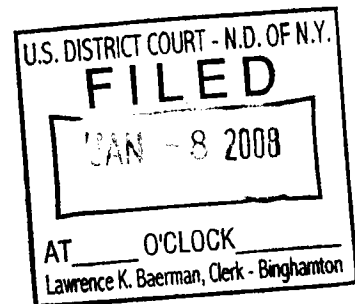


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

INTERSCOPE RECORDS, et al., x
:
Plaintiffs, :
v. :
WILLIAM KIMMEL, :

Defendant. x

Case No.: 3:07-cv-00108-TJM-DEP



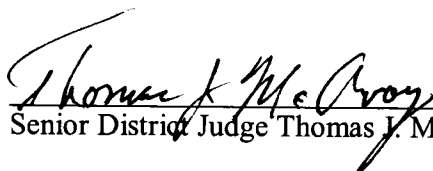
ORDER DENYING DEFENDANT'S MOTION TO DISMISS

Plaintiffs, the copyright owners or exclusive licensees of copyrighted sound recordings, commenced this action under the copyright laws of the United States, 17 U.S.C. § 101 *et seq.*, claiming that defendant, William Kimmel, used an online media distribution system to download and distribute plaintiffs' copyrighted material without authorization in violation of plaintiffs' exclusive rights.

Presently before the Court is defendant's motion to dismiss based on the so called "two dismissal" rule contained in Federal Rule of Civil Procedure 41(a)(1) ("Motion"). Defendant's Motion was filed on November 11, 2007 (Doc. No. 22) and the Court heard oral argument on December 10, 2007. Now, having considered the parties' arguments, and being sufficiently advised, the Court hereby DENIES the Motion for the reasons stated in the Court's ruling from the bench on December 10, 2007. A transcript of the Court's December 10, 2007 ruling is attached hereto and incorporated by this reference.

SO ORDERED this 7th day of January 2008.

BY THE COURT



Senior District Judge Thomas J. McAvoy